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#3

Henry I. Schanzer  
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Edison, NJ 08817

In re Application of :  
CARROLL, et al. :  
Application No.: 09/763,247 :  
PCT No.: PCT/US00/14652 :  
Int. Filing Date: 26 May 2000 :  
Priority Date: None :  
Attorney Docket No.: OPT 33-27 :  
For: WAVE ENERGY CONVERTERS :  
UTILIZING PRESSURE DIFFERENCES :

## DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 20 February 2001 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 26 May 2000, applicant filed international application PCT/US00/14652 and claimed priority to U.S. provisional application 60/136,189 filed "5 May 1999." A Demand for international preliminary examination was not filed prior to the expiration of nineteen months from the priority date.

On 10 July 2000, the International Bureau (IB) mailed a "Invitation to Correct Priority Claim" (Form PCT/IB/316) indicating that the priority claim failed to comply with PCT Rule 4.10 because the filing date did not fall within the period of 12 months preceding the international filing date.

On 20 February 2001, applicant filed the present petition to revive.

On 22 May 2001, the International Bureau mailed applicant a "Notification Relating to Priority Claim" (Form PCT/IB/318) notifying applicant that the priority claim for the present application is considered not to have been made as the applicant's notice was received after the expiration of the prescribed time limit under Rule 26bis.1(a).

DISCUSSION

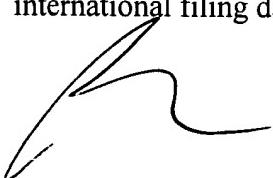
As there is no priority claim for the present international application, the twenty month period for paying the U.S. basic national fee was not to expire until 26 January 2002. Applicant provided this payment along with the present petition on 20 February 2001.

**CONCLUSION**

For the reasons stated above, the petition for revival is **DISMISSED as moot**. The petition fee will be refunded in due course.

Applicant is advised that early processing under 35 U.S.C. 371(f) can not proceed as a compliant oath or declaration of the inventors has not been filed.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for processing of the application at the expiration of 20 months from the international filing date.



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Enclosure: Copy of form PCT/IB/318

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REQUEST FOR PATENT FEE REFUND

1 Date of Request: 10-12-01 2 Serial/Patent # 09/763247

3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
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SIGNATURE: Barbara Campbell PHONE: 305-3631

OFFICE: PCT DO/EO

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Alvin Blumis

DATE:

1/24/02

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